

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JACKAL OF TRADES, LLC, et al.,
Plaintiffs,
v.
BETHEL CHURCH, et al.,
Defendants.

No. 2:23-cv-00142-DJC-KJN PS
ORDER

On March 15, 2023, the Magistrate Judge filed Findings and Recommendations (ECF No. 8), which were served on the parties and which contained notice that any objections to the Findings and Recommendations were to be filed within fourteen (14) days. No objections were filed.

Accordingly, the Court presumes that any findings of fact are correct. See *Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The Magistrate Judge's conclusions of law are reviewed de novo. See *Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

The Magistrate Judge found the complaint should be dismissed as the complaint sought to bring constitutional violation claims against non-state actors, improperly alleged violations of state law as a private citizen, and failed to meet the "plausibility test." (ECF No. 8 at 5.) The Findings and Recommendations construe the

1 complaint to name Krystal Marshall as the Plaintiff in this case. (ECF No. 8 at 4.) Based
2 on this reading of the complaint, the Magistrate Judge determined also that Plaintiff
3 did not have standing to bring the stated claims as they were brought on behalf of
4 another individual, Lily. (*Id.* at 5.) The Findings and Recommendations recommend
5 that this action be dismissed without leave to amend as amending the complaint
6 would be futile. The undersigned will adopt the Findings and Recommendation
7 insofar as they dismiss the complaint for failure to state a claim on which relief can be
8 granted. To the extent that Plaintiff is bringing the claims in this action as Krystal
9 Marshall, the undersigned will adopt the recommendation to dismiss without leave to
10 amend.

11 However, Plaintiff originally appears to have brought this action as “Jackal of
12 Trades, LLC” not as Krystal Marshall. (See ECF No. 1 at 1.) The third party, Lily, is
13 allegedly an employee of Jackal of Trades, LLC. (*Id.* at 6, 9.) The Findings and
14 Recommendations do not address standing if Plaintiff is an LLC (see ECF No. 8.) and it
15 is not immediately apparent if Plaintiff would have standing to proceed as an LLC on
16 behalf of its employee. However, the Court need not reach these issues presently as
17 Plaintiff is seeking to proceed pro se and in forma pauperis. A corporation may not
18 proceed pro se. Local Rule 183(a); see *Rowland v. California Men's Colony, Unit II*
19 *Men's Advisory Council*, 506 U.S. 194, 201-02 (1993) (“It has been the law for the
20 better part of two centuries . . . that a corporation may appear in the federal courts
21 only through licensed counsel . . . [T]hat rule applies equally to all artificial entities.”);
22 *United States v. High Country Broadcasting Co., Inc.*, 3 F.3d 1244, 1245 (9th Cir. 1993)
23 (accord). A corporation also may not proceed in forma pauperis. See 28 U.S.C. §
24 1915(a); see also *Walker v. SSA*, No. 22-cv-00860, 2022 WL 4230459, at *1 (S.D. Cal.
25 Aug. 22, 2022).

26 Accordingly, if Plaintiff intends to proceed as Jackal of Trades, LLC, Plaintiff will
27 be given leave to file an amended complaint to address the issues described in the
28 Findings and Recommendations. However, Plaintiff must also pay the filing fee for this

1 action and be represented by counsel in order to proceed with this action. Plaintiff is
2 warned that failure to pay the filing fee and/or have counsel appear on their behalf by
3 the time an amended complaint is filed will result in this action being dismissed.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The Findings and Recommendations (ECF No. 8) are ADOPTED IN PART;
- 6 2. To the extent Plaintiff seeks to bring this action as an individual, Plaintiff's claims
7 in the complaint (ECF No. 1) are DISMISSED with prejudice;
- 8 3. If Plaintiff wishes to bring the claims in the complaint (ECF No. 1) as an Jackal of
9 Trades, LLC, Plaintiff's claims are DISMISSED with leave to amend;
- 10 4. Should Plaintiff intend to proceed as Jackal of Trades, LLC, within thirty days
11 from the date of service of this order Plaintiff shall file an amended complaint
12 that complies with the requirements of the Civil Rights Act, the Federal Rules of
13 Civil Procedure, and the Local Rules of Practice; the amended complaint must
14 bear the docket number assigned this case and must be labeled "First
15 Amended Complaint;"
- 16 5. Before or at the time of filing an amended complaint, Plaintiff must pay the
17 filing fee for this action and have counsel appear in this action on their behalf;
18 and
- 19 6. Failure to comply with this order will result in this action being dismissed.

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22 IT IS SO ORDERED.

23 Dated: May 30, 2023


Hon. Daniel J. Calabretta
UNITED STATES DISTRICT JUDGE

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